

May 1, 2006

Clerk  
Northern District of New York  
445 Broadway  
Room 441  
Albany, New York 12207

Re: James W. McCulley v. N.Y.S Dep't of Environmental Conservation, et al.  
05-CV-00811 (LEK/DRH)

Dear Sir or Madam,

The last page of the Report-Recommendation and Order issued by Magistrate Judge David R. Homer in the above-captioned case on April 25, 2006 states that “the parties may lodge written objections” to his Report, citing 28 U.S.C. §636(b)(1), Fed. R. Civ. P. 72, 6(a) and 6(e).

Section 636(b)(1) of 28 U.S.C. states that within ten days after being served with a copy of a Report by a Magistrate Judge, “any party may serve and file written objections to such proposed findings and recommendations...” Fed.R.C.P. 72(b), which implements 28 U.S.C. §636(b)(1), states that “A party may respond to another party’s objections within 10 days after being served with a copy thereof.” See Moore’s Federal Practice, 3d Edition (2006) §72.10 (“A party has 10 days to respond to another party’s objections to the magistrate judge’s recommended disposition of a case. This 10-day period is subject to the time calculations of Rule 6.”); see also Wright, Miller and Marcus, Federal Practice and Procedure, Civil 2d, §3070.

Consequently, in the event Plaintiff objects to Magistrate Judge Homer’s Report, Defendants will respond within 10 days thereafter.

Respectfully submitted,

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cc: Hon. Lawrence E. Kahn, U.S. District Judge  
Hon. David R. Homer, U.S. Magistrate Judge  
Matthew D. Norfolk, Esq.- attorney for Plaintiff